

**Proposed Rule**  
LSA Document #17-564

DIGEST

Adds [410 IAC 37](#) to implement the grants for veterans' services concerning hyperbaric oxygen treatment. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[410 IAC 37](#)

SECTION 1. [410 IAC 37](#) IS ADDED TO READ AS FOLLOWS:

**ARTICLE 37. GRANTS FOR VETERANS' SERVICES**

**Rule 1. Diagnostic Testing and Hyperbaric Oxygen Treatment Pilot Program; Expiration June 30, 2020**

[410 IAC 37-1-1](#) Applicability

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 1. The definitions in this rule apply throughout this article.**

(Indiana State Department of Health; [410 IAC 37-1-1](#))

[410 IAC 37-1-2](#) "Copay" defined

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 2. "Copay" means a payment made to a health care provider by a beneficiary in addition to that made by an insurer.**

(Indiana State Department of Health; [410 IAC 37-1-2](#))

[410 IAC 37-1-3](#) "Diagnostic testing" defined

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 3. "Diagnostic testing" means any medically accepted method or approach used to gather clinical information for the purpose of making a clinical decision.**

(Indiana State Department of Health; [410 IAC 37-1-3](#))

[410 IAC 37-1-4](#) "Hyperbaric oxygen treatment" defined

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 4. "Hyperbaric oxygen treatment" has the meaning set forth in [IC 10-17-13.5-6\(a\)](#).**

(Indiana State Department of Health; [410 IAC 37-1-4](#))

[410 IAC 37-1-5](#) "Posttraumatic stress disorder" defined

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 5. "Posttraumatic stress disorder" means a mental health condition diagnosed by a qualified medical professional and satisfying the diagnostic criteria established by the fifth edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Health Disorders (DSM-5).**

*(Indiana State Department of Health; [410 IAC 37-1-5](#))*

**[410 IAC 37-1-6](#) "Provider" defined**

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 6. "Provider" refers to the providers selected by the state department of health through the request for proposal process described in [IC 10-17-13.5-6\(c\)](#).**

*(Indiana State Department of Health; [410 IAC 37-1-6](#))*

**[410 IAC 37-1-7](#) "Service related event" defined**

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 7. "Service related event" means an event that:**

- (1) occurred in the performance of the veteran's professional duties as an active or reserve member of the U.S. Armed Forces; and**
- (2) has been attested to by a medical professional as having caused the veteran's traumatic brain injury or posttraumatic stress disorder.**

*(Indiana State Department of Health; [410 IAC 37-1-7](#))*

**[410 IAC 37-1-8](#) "Traumatic brain injury" defined**

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 8. "Traumatic brain injury" means a medical condition characterized by a disruption in the normal function of the brain that can be caused by a bump, blow, or jolt to the head, or penetrating head injury that has been diagnosed by a qualified medical professional.**

*(Indiana State Department of Health; [410 IAC 37-1-8](#))*

**[410 IAC 37-1-9](#) "Veteran" defined**

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 9. "Veteran" has the meaning set forth in [IC 10-17-13.5-3](#).**

*(Indiana State Department of Health; [410 IAC 37-1-9](#))*

**[410 IAC 37-1-10](#) Provider eligibility**

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

**Sec. 10. (a) The providers selected by the state department of health through the request for proposal process described in [IC 10-17-13.5-6\(c\)](#) are the only providers eligible to participate in the program.**

**(b) The providers shall bill the Indiana department of veterans' affairs for cost of treatment.**

*(Indiana State Department of Health; [410 IAC 37-1-10](#))*

#### **[410 IAC 37-1-11](#) Veteran eligibility**

**Authority:** [IC 10-17-13.5-6](#)

**Affected:** [IC 10-17-13.5](#)

**Sec. 11. (a) The provider shall make a preliminary determination as to whether a veteran is eligible for this program and document the eligibility in writing. The state department of health shall make the final determination of eligibility.**

**(b) To be eligible to participate in the program, a veteran must:**

- (1) have had a service related event that caused traumatic brain injury or posttraumatic stress disorder that is documented by a licensed physician; and**
- (2) pay a copay equal to ten percent (10%) of the cost of treatment billed to the Indiana department of veterans' affairs.**

*(Indiana State Department of Health; [410 IAC 37-1-11](#))*

#### **[410 IAC 37-1-12](#) Treatment plans**

**Authority:** [IC 10-17-13.5-6](#)

**Affected:** [IC 10-17-13.5](#)

**Sec. 12. (a) The providers must submit a treatment plan for each individual eligible veteran to the state department of health for review and approval.**

**(b) The state department of health must provide written notice of the approval or disapproval of the treatment plan within ninety (90) days of receipt.**

**(c) A treatment plan must include:**

- (1) a detailed description of the treatment to be provided to the veteran by the provider under the treatment plan;**
- (2) a prescription from a health care provider;**
- (3) verification from the providers that the veteran is eligible for participation in the program and voluntarily accepts treatment through the program;**
- (4) an estimate of the total cost of the veteran's treatment under the treatment plan;**
- (5) a description of the sources of funding that will be used to pay the total cost of the veteran's hyperbaric oxygen treatment; and**
- (6) any other information requested by the state department of health.**

*(Indiana State Department of Health; [410 IAC 37-1-12](#))*

#### **[410 IAC 37-1-13](#) Criteria for payment**

**Authority:** [IC 10-17-13.5-6](#)

**Affected:** [IC 10-17-13.5](#)

**Sec. 13. (a) The Indiana department of veterans' affairs may approve a grant to a provider under [IC 10-17-13.5-6](#)(b) only if:**

- (1) the treatment provided was based on the approved treatment plan;**
- (2) the drug or device used in the treatment plan has been approved for any purpose by the federal Food and Drug Administration;**
- (3) the veteran's health improved as a result of the hyperbaric oxygen treatment, as demonstrated by:**
  - (A) standardized, independent pretreatment and posttreatment neuropsychological testing;**
  - (B) nationally accepted survey instruments;**
  - (C) neurological examination; or**

- (D) clinical examination; and
- (4) the Indiana department of veterans' affairs has received all pretreatment and posttreatment evaluation documentation.

(b) Grants shall be used to pay only for diagnostic testing and hyperbaric oxygen treatment for eligible participants as defined in section 11 of this rule.

(c) Grants may not be made after June 30, 2020.

(Indiana State Department of Health; [410 IAC 37-1-13](#))

#### [410 IAC 37-1-14](#) Confidentiality of information

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

Sec. 14. (a) All data and information that could identify an individual veteran is confidential.

(b) Subject to the requirements of the Health Insurance Portability and Accountability Act and any other applicable medical records laws, all data and information from which the identity of an individual veteran cannot be reasonably ascertained must be available to the general assembly, participating institutional review boards, participating health care providers, medical researchers, and other governmental agencies.

(Indiana State Department of Health; [410 IAC 37-1-14](#))

#### [410 IAC 37-1-15](#) Expiration

Authority: [IC 10-17-13.5-6](#)

Affected: [IC 10-17-13.5](#)

Sec. 15. This rule expires June 30, 2020.

(Indiana State Department of Health; [410 IAC 37-1-15](#))

#### [Notice of Public Hearing](#)

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